IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

WP(C).No. 32873 of 2003(L)

PETITIONER:

SUNITHA G.S., W/O. GOVINDA RAO SAIT,
RESIDING AT YESUDAS ROAD, KUNNAMKULAM VILLAGE,
DESOM, TALAPPILLY TALUK.

BY ADV. SRI.P.VIJAYA BHANU
SRI.[TONY MATHEW

RESPONDENTS:

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1. ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
KUNNAMKULAM MAJOR SECTION, KUNNAMKULAM.

2. VARGHESE, S/O. CHERUVATHUR MATHEW,
PATTAMBI ROAD, KUNNAMKULAM VILLAGE, DESOM,
TALAPPILLY TALUK.

BY ADV. SRI.N.D.PREMACHANDRAN, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C)No.32873/2003

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. TRUE COPY OF THE JUDGMENT IN O.S.NO.378/1998 DATED 30-11-2000 OF THE MUNSIFF OF CHAVAKKAD

RESPONDENTS' EXHIBITS:

EXT.R1(a): TRUE COPY OF THE JUDGMENT DATED 12-8-2003

EXT.R1(b). TRUE COPY OF TEMPORARY PROHIBITORY INJUNCTION ISSUED BY MUNSIFF COURT, CHAVAKKAD IN O.S.NO.1190/93.

/ TRUE COPYB /

KURIAN JOSEPH, J.

W.P(C)No.32873 of 2003

Dated this the 17th day of January, 2007

JUDGMENT

The writ petition is filed with the following prayer:-

> (i) issue a writ of mandamus or such other writ order or direction directing the 1st respondent not to disconnect the electricity connection having No.4079/DER to the premises of the petitioner.

The stand taken in the counter affidavit is that the disconnection is pursuant to Ext.R1(a) judgment in W.P(C)No.25673/2003. The petitioner is not a party to the judgment. It is also seen from the counter affidavit that a civil suit filed by one Chanayil Peethambaran as O.S.No.1190/2003 on the file of the Munsiff Court, Chavakkad in the matter of drawing of electric line is also pending. Still further it is seen that there was a direction from the Munsiff Court in O.S.No.378/1998 not to disconnect the supply. It appears that the injunction granted in O.S.No.378/1998 (Ext.P1) was not brought to the notice of this court while rendering judgment in W.P(C)No.25673/2003, a judgment obtained by the second respondent behind the back of the petitioner despite an inter parte judgment. Therefore, it is made clear that unless

the decree and judgment in Ext.P1 civil suit is set aside in any process known to law, there shall be no disconnection on the request of the second respondent.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.